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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
AT TACOMA

10 MICHAEL DENTON,

11 Petitioner,

12 v.

13 DONALD R. HOLBROOK,

14 Respondent.

CASE NO. 3:20-cv-05066-BHS-JRC

ORDER DENYING
APPOINTMENT OF COUNSEL

15
16 The District Court has referred this petition for a writ of habeas corpus under 28 U.S.C. §
17 2254 to United States Magistrate Judge, J. Richard Creatura, as authorized by 28 U.S.C. §
18 636(b)(1)(A) and (B) and local Magistrate Judge Rules MJR3 and MJR4.

19 Before the Court is petitioner's motion for the appointment of counsel. Dkt. 6. The
20 Court has conducted a preliminary screening of petitioner's petition and has ordered petitioner to
21 show cause or amend his petition before it can be served. *See* Dkt. 7.

22 There is no right to have counsel appointed in cases brought under 28 U.S.C. § 2254,
23 unless an evidentiary hearing is required or such appointment is "necessary for the effective
24 utilization of discovery procedures." *See McCleskey v. Zant*, 499 U.S. 467, 495 (1991); *United*

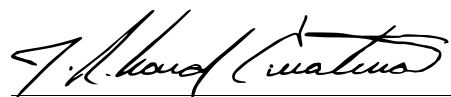
1 *States v. Duarte-Higareda*, 68 F.3d 369, 370 (9th Cir. 1995); *United States v. Angelone*, 894
2 F.2d 1129, 1130 (9th Cir. 1990); *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983); Rules
3 Governing Section 2254 Cases in the United States District Courts 6(a) and 8(c).

4 The Court may request an attorney to represent indigent civil litigants under 28 U.S.C. §
5 1915(e)(1) but should do so only under “exceptional circumstances.” *Agyeman v. Corrections*
6 *Corp. of Am.*, 390 F.3d 1101, 1103 (9th Cir. 2004). “A finding of exceptional circumstances
7 requires an evaluation of both the likelihood of success on the merits and the ability of the
8 plaintiff to articulate his claims *pro se* in light of the complexity of the legal issues involved.”
9 *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986). These factors must be viewed
10 together before reaching a decision on a request for counsel under § 1915(e)(1). *Id.*

11 Petitioner has not requested that he be allowed to conduct discovery in this matter nor
12 does the Court find good cause for granting him leave to do so at this stage of the proceedings.
13 See Rule Governing Section 2254 Cases in the United States District Courts 6(a). In addition,
14 the Court has not determined that an evidentiary hearing will be required, nor does it appear that
15 one is needed at this time. See Rule Governing Section 2254 Cases in the United States District
16 Courts 8(c). The circumstances that petitioner lists for granting appointment of counsel—limited
17 access to a law library, lack of legal training, and conflicting testimony and evidence—are
18 circumstances common to most litigants and not the exceptional circumstances necessary to
19 justify the appointment of counsel.

20 Accordingly, petitioner’s motion for the appointment of counsel (Dkt. 6) is denied.

21 Dated this 12th day of March, 2020.

22 

23 J. Richard Creatura
24 United States Magistrate Judge